1 KAMALA D. HARRIS
   Attorney General of California
2 TAMAR PACHTER
   Supervising Deputy Attorney General
3 SHARON L. O'GRADY
   Deputy Attorney General
4 State Bar No. 102356
     455 Golden Gate Avenue, Suite 11000
5   San Francisco, CA 94102-7004
     Telephone: (415) 703-5899
6   Fax: (415) 703-1234
     E-mail: Sharon.OGrady@doj.ca.gov
7 *Attorneys for Defendant Alex Padilla, Secretary of*
   State

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9   IN THE UNITED STATES DISTRICT COURT

10   FOR THE NORTHERN DISTRICT OF CALIFORNIA

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VOTING RIGHTS DEFENSE PROJECT, AMERICAN INDEPENDENT PARTY, CLARA DAIMS, and SUZANNE BUSHNELL, Plaintiffs, v. **ALEX PADILLA, in his official capacity as Secretary of State and an indispensable party; TIM DEPUIS, in his official capacity as chief of the Alameda County Registrar of Voters, JOHN ARNTZ, in his official capacity as Director of the San Francisco Board of Elections, AND DOES I-X,** Defendants.	Case No. 3:16-cv-02739-WHA **DECLARATION OF SUSAN LAPSLEY IN OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION** Date: June 1, 2016 Time: 11:00 a.m. Courtroom: 8 Judge: William Alsup Trial Date: None set Action Filed: May 20, 2016

24   I, Susan Lapsley, declare as follows:

25   1.   I currently serve as Deputy Secretary of State, HAVA Director and Counsel for

26 California Secretary of State Alex Padilla, Petitioner in this action. I have served in this capacity

27 since approximately December 2011. I have personal knowledge of the facts contained in this

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1   declaration, and if called upon to testify I could and would testify competently as to the truth of

2   the facts stated herein.

3   2.   Section 303 of Title III of the federal Help America Vote Act (HAVA) of 2002

4   requires states to develop a single, uniform, centralized, official, interactive statewide voter

5   registration database to be maintained and administered at the state level by January 1, 2006.

6   3.   In November 2005, California entered into a Memorandum of Agreement with the

7   Civil Rights Division of the United States Department of Justice for interim compliance with the

8   HAVA Title III statewide voter registration database requirement. Interim compliance required

9   the Secretary of State to modify its existing statewide database (CalVoter) and make procedural

10 changes through the promulgation of regulations. The Memorandum of Agreement also required

11 the Secretary of State to fully develop and deploy a compliant statewide voter registration

12 database (VoteCal). This Memorandum of Agreement is attached to this declaration as **Exhibit A.**

13   4.   In my capacity as Deputy Secretary of State, HAVA Director and Counsel, I have

14 served as the project director for the implementation of the VoteCal project since May 2014.

15   5.   The VoteCal project is a seven phase project and is currently in phase six, the

16 deployment phase. The project is structured in such a way that each of the 58 California counties

17 keep their local county election management system (EMS), which has been modified to tie in

18 with the state database developed by a system integrator. There are two EMS vendors being used

19 by California counties. The Secretary of State has entered into contracts with a system integrator

20 and each of the EMS vendors to establish minimum requirements for the state system and

21 modifications to the local EMS. These contracts are attached to this declaration as **Exhibit B.**

22   6.   Until VoteCal deployment is complete, both the interim compliant state CalVoter

23 system and the VoteCal system are being maintained by the 58 counties and the Secretary of

24 State.

25   7.   The core functions of the state CalVoter system, the state VoteCal system and the two

26 local EMS systems are for voter registration. The registration date of voters and the close of

27 registration is crucial to the logic and functionality of the local county EMS and the state systems.

28 Modification of the date of the close of registration will require reprogramming and modification

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1   of the two local EMS vendor systems, the interim compliant CalVoter system and the new

2   VoteCal system.

3   8.   The interim compliant CalVoter system is a legacy system from the early 1990s and

4   is based on software that is no longer supported. See California Bureau of State Audits Report

5   attached to this declaration as **Exhibit C.** Any programming to the CalVoter system will involve

6   reverse engineering of the code by the Secretary of State, which requires significant resources and

7   significant time. Any need for a change to the CalVoter system, including integration with the

8   EMSs and testing is a significant undertaking for SOS.

9   9.   Any changes to the close of voter registration date would be outside of the existing

10   contracts for the local EMS vendors and the state integrator and would require either contract

11   amendments or new contracts, resulting in additional costs as well as delay of the current VoteCal

12   project as resources will be pulled from the current deployment to make the changes.

13   10.   Any reprogramming and modification to the two local EMS vendors, the interim

14   compliant CalVoter system and the new VoteCal system will also require changes to the business

15   rules at counties, system configurations at the state and counties, system reports, and various

16   types of test cases in order for all systems to be sufficiently tested, including comprehensive

17   regression testing to ensure that all logic and functionality operates accurately between the four
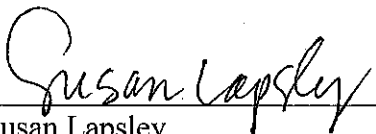
18   systems.

19   11.   In addition to the reprogramming and modification to the county EMS systems and

20   the state systems, county business rules and processes will need to be revised to implement

21   Plaintiff's requested relief. The Secretary of State and the 58 California counties have conformed

22   their operations to the already passed May 23, 2016, voter registration deadline. This includes

23   logistical preparations and statutory requirements such as: online and printed voter registration

24   materials, the Voter Information Guide, sample ballots, vote by mail ballots and outreach.

25   12.   The Plaintiff's requested relief could threaten the integrity of the June 7, 2016,

26   Presidential Primary Election. As set forth above the requested relief is logistically impossible to

27   implement prior to the June 7, 2016, Presidential Primary Election. Any change to the voter

28   registration deadline would require the Secretary of State to expend significant Secretary of State

1   resources to change the CalVoter system, incur costs and delays to the implementation of the

2   existing VoteCal project, and could create voter confusion by changing a long established and

3   well publicized deadline.

4   I declare under penalty of perjury under the laws of the State of California that the

5   foregoing is true and correct and that this Declaration is executed on May 29, 2016, at

6   Sacramento, California.

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Dated: May 29, 2016

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9   Susan Lapsley

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     Declaration.doc
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Declaration of Susan Lapsley in Opposition to Motion for Preliminary Injunction (3:16-cv-02739-WHA)